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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 26, 1993

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Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D. C. 20554

Re: MM Docket No. 93-17
RM-8170
Rosendale, New York

Dear Ms. Searcy:

On behalf of petitioner State University of New York, I enclose an original and five (5) copies of our Reply Comments. I request that one copy of our papers be stamped as received and returned in the enclosed stamped envelope.

If I can provide additional information, please advise.

Sincerely yours,

Lewis E. Rosenthal
Lewis E. Rosenthal
Associate Counsel

Encs.

cc: Mr. Robedee

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APR 27 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of

MM Docket No. 93-17

Amendment of Section 73.202(b)

RM 8170

Table of Allotments,
FM Broadcast Stations
(Rosendale, New York)

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To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

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REPLY COMMENTS

1. The State University of New York ("WFNP"), the licensee of non-commercial, WFNP (FM) Rosendale, New York, respectfully submits its reply comments in the above-referenced proceedings.

2. As stated in our showing and comments filed with the Commission on April 9, 1993, we are requesting that Channel 273A be allocated as a non-reserved channel and that WFNP will operate the station as non-commercial. If the Commission grants authority to

operation of two non-commercial educational FM stations. The termination of the existing share time arrangement would best serve the public interest.

5. WFNP has requested that this allocation be made under the rules governing commercial broadcasters, therefore the coordinates selected for the allocation point represent special reference coordinates only. WFNP does not intend to actually construct at the allocation point, but intends to build facilities at its existing location. WFNP has been given site assurance and can demonstrate that operation on Channel 273A will allow WFNP to substantially serve the same persons that its present facilities serve. An allocation on Channel 255A would reduce the number of people served. Even if the allocation on Channel 255A served the same number of persons, a population currently served by WFNP would lose service. WFNP's operation on Channel 255A would offer a diminished service to the persons in New Paltz. The lack of a city grade contour in New Paltz would force WFNP to move its studios or seek a waiver.

6. The RSB and SHU Counterproposal requests that Channel 255A be allocated as a reserved channel. As indicated above and in our comments filed with the Commission on April 9, 1993, we have not requested Channel 273A be allocated as a reserved channel.

7. The Joint Counterproposal also requests that the Commission amend Section 73.202(b) of the Commission's rules and modify RSB's license to a new community. This is a direct violation of the Commission's rules. According to Section 1.420(i) of

the Commission's rules, this may happen only when the amended allotment would be mutually exclusive with the present assignment. We submit that Channel 273A which RSB is seeking is not mutually exclusive with Channel 277A, it's present assignment. This can be substantiated by the Allocation Study provided in the Joint Counterproposal.

8. If the RSB and SHU Counterproposal is accepted by the Commission and a Public Notice is issued, State University of New York reserves the right to file complete comments in opposition to the requested allocations contained in the Counterproposal.

Respectfully submitted,

STATE UNIVERSITY OF NEW YORK



SANFORD H. LEVINE
University Counsel and Vice
Chancellor for Legal Affairs

By: LEWIS E. ROSENTHAL
Associate Counsel
State University of New York
State University Plaza
Albany, New York 12246
Telephone: (518) 443-5400

Dated: April 26, 1993

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CERTIFICATE OF SERVICE

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I, Carol Purtell, a Keyboard Specialist in the Office of the University Counsel of the State University of New York, hereby certify that I have, on this 26th day of April, 1993, sent by Express and/or First-class mail, postage prepaid, copies of the foregoing "**Reply Comments**" to the following:

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D. C. 20554

Ms. Leslie K. Shapiro
Allocations Branch
Mass Media Bureau
Federal Communications Commission
2025 L. Street, N.W. - Room 8313
Washington, D.C. 20554

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